

M67VSHET

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

New York, N.Y.

4 v.

20 Cr. 412 (AT)

5 TIMOTHY SHEA,

6 Defendant.

Trial

7 -----x

8 June 7, 2022
9 10:35 a.m.

10 Before:

11 HON. ANALISA TORRES,

12 District Judge
13 and a Jury

14 APPEARANCES

15 DAMIAN WILLIAMS

16 United States Attorney for the
Southern District of New York

17 BY: NICOLAS T. ROOS

ROBERT B. SOBELMAN

18 Assistant United States Attorneys

19 MERINGOLO & ASSOCIATES P.C.

Attorneys for Defendant

20 BY: JOHN C. MERINGOLO

ANGELICA B. CAPPELLINO

21 CLARA S. KALHOUS

22
23 Also Present: Sunny Drescher, Paralegal Specialist, USAO
24
25

M67VSHET

(Trial resumed; jury not present)

THE COURT: Good morning.

Please make your appearances.

MR. SOBELMAN: Robert Sobelman and Nicolas Roos for the United States. We are joined at counsel table by Sunny Drescher, a paralegal in our office.

Good morning, your Honor.

MR. MERINGOLO: Good morning, your Honor.

John Meringolo, Anjelica Cappellino and Clara Kalhous for Mr. Shea, who's standing to my right.

THE COURT: Please be seated.

About 20 minutes ago I got a couple of notes from two of the alternates, both asking to be released.

Is there any objection to my releasing all four alternates?

MR. SOBELMAN: Your Honor, what we would suggest is that the alternates be permitted to return home or work, wherever they wish, and not be held here; that they be instructed not to discuss the case, they need to follow your Honor's instruction that they could be subject to a recall in the event that there was an issue with one or more jurors that are sitting and deliberating now.

THE COURT: So Juror No. 3 states that he has pressing work obligations; that he has a manager out of the office starting today. And the other juror, Alternate Juror No. 2,

M67VSHET

1 also speaks of pressing work obligations.

2 MR. SOBELMAN: The government has no issue with them
3 going to work, going home; they don't have to return to court
4 unless recalled by your Honor. But we wouldn't want them to
5 read about the case or discuss it with people.

6 In my experience, other judges have taken a similar
7 step to physically release the jurors, but not release them
8 from their jury duty, depending on -- with the understanding
9 that they could be recalled in the event that they are needed.

10 THE COURT: Okay. It has not been my practice in the
11 last two decades to do that, but given the length of the
12 deliberations, I think it's appropriate.

13 So if you'd get the alternates, please.

14 (Alternate jurors present)

15 THE COURT: Do the parties agree that all four
16 alternate jurors are present?

17 MR. SOBELMAN: Yes, your Honor.

18 MR. MERINGOLO: Yes, Judge.

19 THE COURT: Please be seated.

20 Good morning. I understand how you have been
21 patiently waiting for a number of days. What I've decided to
22 do is to permit you to leave the courthouse. You can return to
23 home or to work, wherever you go, that is within range of the
24 courthouse.

25 I am not releasing you from your duties completely. I

M67VSHET

1 am just releasing you from your obligation to be physically
2 present in the courthouse. I want you to, of course, keep your
3 phones with you so that we may reach you in case we need you.

4 The same rules apply as before, that you are not
5 permitted to discuss the case amongst yourselves or with anyone
6 else; you are not permitted to permit anyone to discuss the
7 case in your presence; and you cannot listen to or read any
8 news about the case or any other information about the case
9 from any source.

10 So I thank you for your patience, and we will call
11 upon you if we need you.

12 ALTERNATE JURORS: Thank you.

13 (Alternate jurors not present)

14 THE COURT: That's all.

15 (Recess pending verdict)

16 THE COURT: Good afternoon. I've received a note from
17 the jury.

18 Would you make your appearances, please.

19 MR. ROOS: Good afternoon, your Honor.

20 Nicolas Roos, Robert Sobelman for the United States.

21 MR. MERINGOLO: Good afternoon, your Honor.

22 John Meringolo, Anjelica Cappellino, Clara Kalhous for
23 Tim Shea.

24 THE COURT: Please be seated.

25 I received a note at 1:50 p.m. I'm making it Court

M67VSHET

1 Exhibit No. 6. It is signed by the foreperson and it has
2 today's date. It says: We the jury, Judge Torres, in the last
3 few days, we have narrowed our focus to an agreed-upon scope
4 consisting of a few points of contention. We have gone to
5 extreme depth and granular detail building up a bottom-up
6 analysis regarding these points. In doing so, it is abundantly
7 clear that we are even further entrenched in our opposing
8 views.

9 I interpret this to mean that they are hopelessly
10 deadlocked; and I believe that at this point, after so much
11 time deliberating, that it is appropriate for me to declare a
12 mistrial.

13 I'll hear from the parties.

14 MR. ROOS: Certainly I understand your position, your
15 Honor. Can I just have, like, two minutes to confer with
16 Mr. Sobelman about this?

17 THE COURT: Yes.

18 (Counsel conferred)

19 MR. SOBELMAN: Your Honor, do you have a copy of the
20 note?

21 THE COURT: Yes, I do.

22 (Counsel conferred)

23 MR. ROOS: So, your Honor, the one thing, I guess,
24 maybe we just want to be sure about is that when they say,
25 We've agreed upon a scope consisting of a few points of

M67VSHET

1 contention, we just want to make sure that they haven't reached
2 a partial verdict on something and they are fighting over the
3 other things, if that makes sense. They reach a verdict on,
4 say, Count Three, then the few points of contention are over
5 the counts, I don't know. But assuming that the points of
6 contention relate to all of the counts, then we will agree to a
7 mistrial. We would just ask that you clarify.

8 THE COURT: I will make the inquiry.

9 If you'll have the jurors brought in, please.

10 MR. MERINGOLO: Judge, for the record, let me --
11 Judge, I think if we look at the -- if I may, if we look at the
12 third point: In doing so, it is abundantly clear that we are
13 further entrenched in our opposing views. I think that they
14 are even further apart than they were --

15 THE COURT: There's no harm in asking them whether
16 they have not been able to reach a verdict on all three counts.
17 There's nothing --

18 MR. MERINGOLO: Okay.

19 THE COURT: -- that's going to --

20 MR. MERINGOLO: Thank you.

21 THE COURT: You can bring in the jurors.

22 (Jury present)

23 THE COURT: Do the parties agree that all jurors are
24 present and properly seated?

25 MR. ROOS: Yes, your Honor.

M67VSHET

1 MR. MERINGOLO: Yes, Judge.

2 THE COURT: Please be seated.

3 Good afternoon, jurors. Thank you again for coming in
4 and for working so hard.

5 I've received another note from you signed by the
6 foreperson and dated today's date. It came in at 1:50 p.m.,
7 and I've made it Court Exhibit No. 6.

8 It says: We the jury, Judge Torres, in the last few
9 days we have narrowed our focus to an agreed-upon scope
10 consisting of a few points of contention. We have gone to
11 extreme depth and granular detail building a bottom-up analysis
12 regarding these points. In doing so, it is abundantly clear
13 that we are even further entrenched in our opposing views.

14 So I need another note from you to let me know whether
15 you're saying that you cannot reach a verdict on all three
16 counts or is it that you can reach a verdict on some of the
17 counts. So I'm going to have you go back to the jury room to
18 give me another note.

19 (Jury not present)

20 THE COURT: You may be seated.

21 It's 2:10, and I've received the seventh note. I'm
22 making it Court Exhibit No. 7. It's signed by the foreperson
23 and dated today's date.

24 It states: We the jury, Judge Torres, we cannot reach
25 a verdict on any of the three counts.

M67VSHET

1 So I'm going to bring the jurors back in. I'm going
2 to declare a mistrial and dismiss the jurors.

3 MR. SOBELMAN: Your Honor, we would ask that you
4 inform the jury that they are free to speak with us if they
5 choose to. And we would ask -- we don't intend to bother them
6 today, since they've been here for quite some time. But we
7 would ask that you let them know we would be interested in
8 getting their contact information, email and phone number, so
9 that we could follow up with them at a later time, if they
10 chose to speak with us. We also could address them directly, I
11 just don't want to overstep our position.

12 THE COURT: So I usually -- one moment.

13 I usually let them know that the attorneys want to
14 speak to them and would they care to remain. And so those who
15 don't remain I can take a note of. I have all of their contact
16 information.

17 MR. SOBELMAN: Okay. If the Court is willing to
18 provide it to us, maybe the Court can just let them know that
19 we would intend to be in touch with them. They are free to
20 speak with us if they want to, but, of course, they don't have
21 to.

22 THE COURT: Do you want to speak with them today?

23 MR. MERINGOLO: If they want. They may not want.

24 MR. SOBELMAN: Sure, if they want to stay and talk
25 with us today, we're obviously happy to do that as well.

M67VSHET

1 THE COURT: Okay. All right.

2 You may bring the jurors in.

3 (Jury present)

4 THE COURT: Do the parties agree that all jurors are
5 present and properly seated?

6 MR. ROOS: Yes, your Honor.

7 MR. MERINGOLO: Yes, Judge.

8 THE COURT: Please sit down.

9 I have received another note from the jury; it came in
10 at 2:10 p.m. It's signed by the foreperson and dated today's
11 date. I'm making it Court Exhibit No. 7.

12 It says: We the jury, Judge Torres, we cannot reach a
13 verdict on any of the three counts.

14 Members of the jury, I know you have been working
15 very, very hard. I want to thank you for your service as
16 jurors and for the time and attention that you have given to
17 your deliberations. Inasmuch as you have not been able to
18 reach a verdict, I am declaring a mistrial.

19 A democracy such as ours could not function without
20 the willingness of people such as you to serve. Some people
21 serve in the military, others work in government, such as
22 myself. But, of course, your most important obligation is to
23 vote. But you've also served as jurors. And it is one of the
24 highest duties that an American citizen can be called upon to
25 perform. So I thank you for the time and attention that you've

M67VSHET

1 devoted to your work.

2 Now, what you said amongst yourselves may remain
3 secret; you don't have to disclose that to anybody. But you
4 are free now to discuss this case with anyone, if you choose.

5 I'd like to thank you personally in the jury room, so
6 please wait for me there.

7 (Jury not present)

8 THE COURT: I'm ready to go forward on July 11 with
9 another trial. Counsel, will you be ready on that day?

10 MR. ROOS: Your Honor, I think some of the government
11 lawyers may have other trials scheduled. Certainly the
12 government is always ready to proceed, so we'll make it work.

13 MR. MERINGOLO: Judge, I have a trial in front of
14 Judge Garaufis starting on July 11th. It's going to be in
15 between four and six weeks. And then subsequent to that, I'll
16 know over the next few days, I have a trial in Philadelphia in
17 *United States v. Mazzone* and Judge Surrick. That's been
18 pending just as long as this case was.

19 THE COURT: So that's in August?

20 MR. MERINGOLO: The July date is going to go into
21 August. And then the September 6th is the *Mazzone* case, and
22 it's a heavy racketeering case.

23 Both of the cases I haven't really started -- I
24 haven't -- I've started to prepare, but not like really
25 prepare. I'm of the hope that the *Mazzone* case will plead, for

M67VSHET

1 my family and myself. But that's going to be like a two-month
2 trial. But we had negotiations yesterday with the prosecutor.
3 If it pleads, I'll let you know and then we can do it late
4 August or September.

5 THE COURT: I will come back with some more dates.

6 MR. MERINGOLO: Okay. Hopefully, when cooler heads
7 prevail, maybe I can sit down with the government and maybe
8 there's a way we can resolve this case without a trial.

9 THE COURT: All right. Well, I want to thank all of
10 you for your hard work.

11 MR. MERINGOLO: Thank you, Judge.

12 THE COURT: I'm going to step down and I will ask them
13 if they will speak with you.

14 (Trial concluded)